

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN CARR POWERS,

Plaintiff,

V.

THE CITY OF SEATTLE, *et al.*,

Defendants.

Case No. C06-1727RSL

**ORDER REQUESTING
SUPPLEMENTAL BRIEFING**

This matter comes before the Court on a motion to dismiss filed by defendant Seattle Police Detective Jennifer McLean (Dkt. #39). McLean argues that during the relevant time, she was working on an assignment with the Seattle Federal Bureau of Investigation (“FBI”) as a specially deputized Federal Task Force Officer on the Public Integrity Task Force (“PITF” or the “task force”). The motion requires the Court to determine whether McLean was acting in the scope of her federal employment at the time she made the allegedly defamatory statements.

McLean and the Attorney General's designee state that McLean was acting during the scope of her federal employment during all relevant times and with respect to all allegations in the complaint. However, their conclusory statements do not explain why that was so despite the fact that many of the statements allegedly were made after the PITF investigation ended and while McLean was working on a Seattle Police Department assignment. The appointment forms

1 are sufficient to show that McLean was a temporary federal employee. However, neither
2 McLean's declaration nor the deputation appointment forms specify what McLean was
3 authorized to do or did for the FBI after the conclusion of the PITF's investigation. Without that
4 information, the Court cannot determine whether the statements were made in the scope of that
5 employment.

6 Accordingly, the Court ORDERS the parties to provide supplemental briefing on the
7 issue of what McLean was authorized to do in her employment for the FBI at the time the
8 allegedly defamatory statements were made. If McLean was still working for the PITF, the
9 supplemental briefing should also address whether the PITF investigation was on-going,
10 McLean's role in the continuing investigation, and whether the allegedly defamatory statements
11 were made in that role. McLean shall file a supplemental memorandum, not to exceed four
12 pages, and a sworn declaration no later than June 8, 2007. Plaintiff shall file a supplemental
13 response, not to exceed four pages, no later than June 22, 2007. The Clerk of the Court is
14 directed to renote defendant's motion to dismiss (Dkt. #39) for June 22, 2007.

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16 DATED this 24th day of May, 2007.
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Robert S. Lasnik

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20 Robert S. Lasnik
United States District Judge
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